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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/806,221

03/23/2004

Yukio Nakanishi

1131-0459PUS2

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EXAMINER

LAZORCIK, JASON L

ART UNIT

PAPER NUMBER

1731

NOTIFICATION DATE

DELIVERY MODE

05/18/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No. 10/806,221	Applicant(s) NAKANISHI ET AL.	
	Examiner Jason L. Lazorcik	Art Unit 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/000,159.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>03/23/2004</u> . | 6) <input checked="" type="checkbox"/> Other: <u>01/24/2005</u> . |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group II, Claims 11-14, drawn to a sheet tobacco manufacturing system in the reply filed on March 23, 2007 is acknowledged. The traversal is on the ground(s) that the case for a serious burden has not been placed on the Examiner to consider all recited claims in a single application. As clearly laid out in the restriction requirement dated February 23, 2007, Applicants traversal must present evidence of record showing the inventions to be obvious variants. In the absence of such evidence, Applicants arguments amount to a general allegation against the case for a serious burden in the restriction requirement without to any specific flaws therein.

Since Applicant has presented no persuasive arguments on this matter, the restriction requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13/11, 13/12, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "said pressing machine" in line 3-4. There is insufficient antecedent basis for this limitation in the claim. For purposes of examination, the claimed "said pressing machine" is held equivalent to the "pressing device" recited in claim 11, line 11.

Claim Rejections - 35 USC § 102

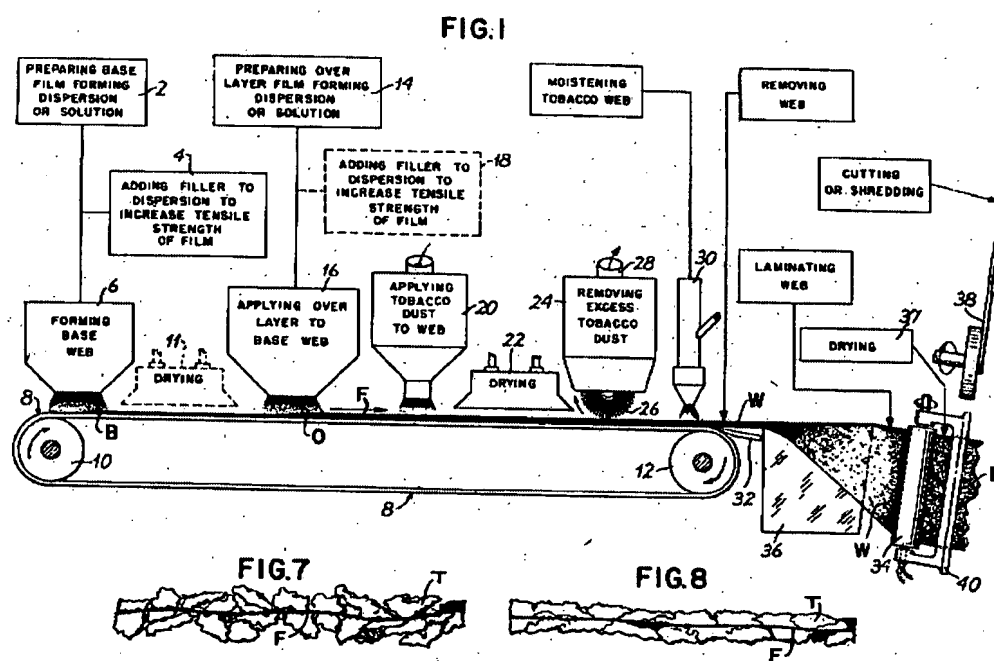
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 12, 13/11, and 13/12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hungerford (US 2,734,510). As clearly set forth in the instant reference figure 1 excerpt below, Hungerford teaches an endless net conveyor (8), an upstream-side forming device (16), a spraying device (6) upstream of the upstream-side forming device [**Claim 12**], a powder spreading device (20) downstream of the upstream-side forming device, a pressing device (34) arranged on the downstream side of the powder spreading device, and a downstream-side forming device (36) arranged between the powder spreading device and the pressing device [**Claims 13/11, 13/12**]. The downstream-side forming device provide or "stationary plow member" longitudinally folds the formed sheet to provide a "laminated tobacco sheet".

As depicted in the instant excerpt figure 7 below, the "laminated tobacco sheet" structure provides a tobacco powder layer (F) encapsulated by a cover sheet non-woven tobacco plant material (T). It therefore follows that the downstream-side forming device (36) is capable of producing the claimed "cover sheet of nonwoven plant fibers" covering the tobacco powder layer (see Figure 7 excerpt below). The reference further teaches that "the rollers (34) may be heated or very high pressures may be used with a comparatively moist sheet" (Column 6, lines 41-45).



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

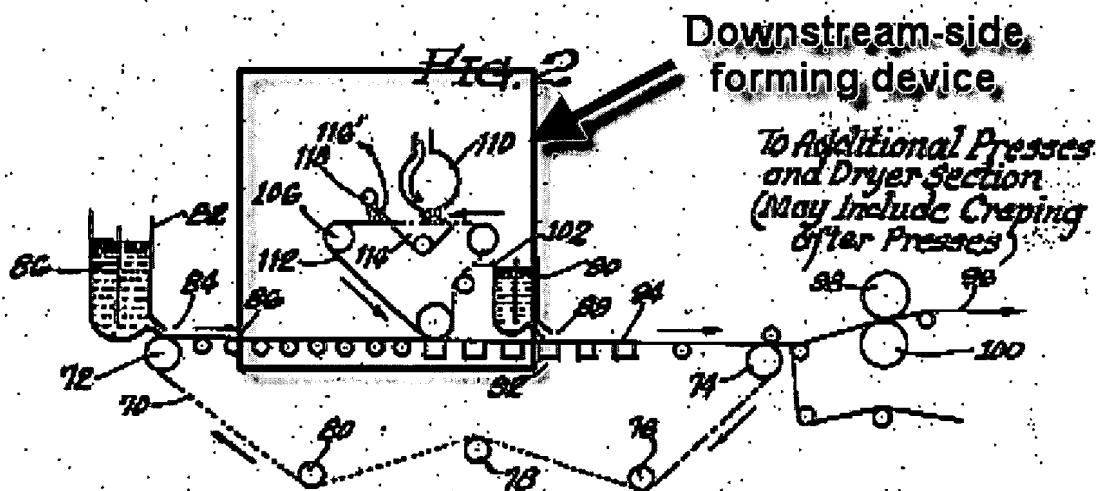
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huntingford (US 2,734,510) as applied under 35 U.S.C. 102(b) above. Huntingford explicitly indicates that in forming the laminated tobacco sheet structure, "Sheet or strip material W can also be laminated by bringing two strips of continuous film into back to back relationship and pressing them together as by rollers (34)" (Column 6, lines 23-50). It follows from this disclosure that Huntingford anticipated an apparatus arrangement wherein the depicted downstream-side forming device (36) would be modified in a location downstream from the powder spreading device but upstream from the pressing device in a manner that permitted contacting and laminating of two discrete sheets.

Although Huntingford is silent regarding the particular details of this modified arrangement, the patent to Clark et. al. (US 2,881,072) teaches an analogous apparatus for forming a reconstituted tobacco laminate product. The particular arrangement depicted in Figure 2 (see Excerpt below) provides an upstream former (82) which forms a non-woven sheet (86) on a net conveyor (70). A second sheet of non-woven material

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is brought into back to back relationship with the first non-woven sheet to form a laminate structure. This "downstream-side forming device" comprises a fiber spreading unit (110) arranged above the net conveyor (70) and includes a mesh conveyor (102) arranged between the fiber spreading unit and the net conveyor. The suction box (114) provides the claimed sucking operation on the mesh conveyor (102). Although not explicitly depicted in the Clark apparatus, it would have been obvious to incorporate the claimed peeling means, similar to element 32 in the Huntingford apparatus (see Fig 1 above) to release the transferred sheet from the mesh conveyor.



In summary, the Huntingford reference is silent regarding the particular details of the apparatus which forms a laminate by "bringing two strips of continuous film into back to back relationship". The analogous apparatus for fabricating a reconstituted tobacco laminate as taught by Clark provides a "back to back" laminating arrangement that reads directly upon the each of the claimed elements of the "downstream-side forming device". It follows that the apparatus set forth in the instant claim 14 would represent a

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mere obvious modification over the combined teachings of Huntingford and Clark for one having a normal level of skill in the art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art made of record has been cited to reflect the state of the art with respect to that apparatus and methods for forming a reconstituted tobacco sheet laminate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason L. Lazorcik whose telephone number is (571) 272-2217. The examiner can normally be reached on Monday through Friday 8:30 am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JLL


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